

THE NEW MARITIME SILK ROAD: NAVIGATION AND SECURITY IN THE TECHNOLOGICAL ERA

WEBINAR "THE IMPACT OF THE NEW MARITIME SILK ROAD ON PORT
MANAGEMENT AND SECURITY IN THE ADRIATIC SEA"

University of Macerata - Department of Law, 21 May 2021

Croatian Legal Framework for Port Security

Igor Vio

University of Rijeka - Faculty of Maritime Studies

BACKGROUND

With the introduction of the new Chapter XI-2 of the SOLAS Convention and the adoption of the ISPS Code at the London Diplomatic Conference in 2002, the Republic of Croatia was obliged to implement appropriate security measures with regard to seaports.

Accordingly, the Government of the Republic of Croatia passed the Decree on the Security Protection of Merchant Ships and Ports Open to International Traffic on 13 November 2003, which was later transformed into the Act of the same name by the Croatian Parliament.

Acquiring the status of a candidate for membership in the European Union in 2004 and opening accession negotiations on the conditions for the adoption, implementation and enforcement of the *acquis communautaire*, resulted in a new obligation to incorporate relevant European legal acts in the field of maritime security in the Croatian legal system: Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security and Directive 2005/65/EC of The European Parliament and of the Council of 26 October 2005 on Enhancing Port Security.

Therefore, in 2009 the Ships and Ports Security Act (hereinafter: SPSA) was adopted with subsequent amendments from 2012 introducing modern international solutions for increasing the security protection of seaports into the Croatian legal space, taking into account the appropriate modifications contained in the legal acts of the European Union. It was replaced by the new Act in 2017 with the recent amendments adopted in March 2021.

SCOPE OF THE SHIPS AND PORT SECURITY ACT

The introductory provisions of the SPSA define the scope of the Act and provide for its application to those ports and port operational facilities to which the following categories of merchant ships intended for maritime navigation dock or anchor:

- a) passenger ships in international navigation, including high-speed passenger ships,
- b) cargo ships in international navigation of 500 gross registered tons or more, including fast cargo ships,
- c) passenger ships engaged in national navigation engaged on voyages of more than 20 nautical miles from the coast

MAIN PURPOSE OF THE SHIPS AND PORT SECURITY ACT

The main purpose of the SPSA is to ensure the security of ships and ports in cases of security threat or security-threatening event, i.e. in cases of events, actions or circumstances that threaten or may threaten the security of a ship or port or any permitted activity in the port area.

The term security protection means a system of preventive measures intended to protect ships and ports from the threat of intentional illegal acts.

These legal definitions emphasize primarily the **preventive character** of security measures, the task of which is to provide conditions for the normal performance of port activities and to prevent the occurrence of situations that could result in endangering people and property located in the port.

PORT SECURITY SERVICE

In accordance with provisions of the Art. 6.3 of the SPSA, depending on the type of port, its security is the responsibility of the **port authority**, or of the **concessionaire** of the special purpose port.

This responsibility primarily implies the obligation to establish a **service in charge of port security** as a special organizational unit responsible for implementing security measures, which must be operational 24 hours a day.

The relevant service is managed by a person responsible for port security appointed by the Director of the Port Authority or the responsible person of the special purpose port concessionaire, for a period of five years.

PORT SECURITY ASSESSMENT

The seaports to which security measures are applied must have a security protection assessment made by a recognized port security organization, where the mandatory content of each assessment is set out in Annex 1 of SPSA.

When making the assessment, the recognized organization must primarily take into account the specifics of certain parts of the port area, but also the areas outside the port that may be important for its safety.

The assessment must be renewed at least every five years, but also earlier in cases of:

- a) increase or decrease of the port area by more than 5% of its total area,
- b) major changes in the structure, mode of operation or prevailing cargo in the port,
- c) request of the Ministry.

PORT SECURITY PLAN

Each port or port operating area to which the SPSA applies must have and maintain a valid port security plan made by a recognized port security organisation based on an approved port security assessment.

It is compiled by a recognized organization for port security, different from the one that made the assessment that is the basis for the development of the plan.

A port security plan is a plan of measures that regulates the protection of the port itself, ships, persons and cargo, transport units of cargo and ship's stores within the port area from security threats or events that endanger security.

Annex 2 of SPSA determines the mandatory content of each port security plan.

The plan itself, as well as its amendments, is approved by the Ministry with the prior opinion of the Ministry of the Interior.

Given the nature of the data contained in it, but also the purpose of the security protection system itself, the plan must be protected from unauthorized access or disclosure.

In order to check the readiness of the port security plan, individual and general exercises must be carried out on a regular basis.

LEVELS OF SECURITY

The Port Security Plan defines the procedures, measures and activities for each security level.

The levels of security for ports in the Republic of Croatia is determined by the Ministry of Interior Affairs according to the basic and specific security indicators.

The Ministry in charge of the Interior shall immediately inform the Ministry of Maritime Affairs, the Ministry in charge of Defense and the National Center for Coordination of Search and Rescue at Sea (MRCC) about the determined level of security protection and all its changes.

The notification on the change of the level of security protection must contain at least:

- date of change
- time of entry into force and period of application
- newly established level of security protection
- a brief description of the reasons for the change in the level of security protection
- port or ports or ships to which the level of security protection applies
- additional protection measures that must be implemented in addition to the measures determined by the security protection plans of the port or ship, if any.

RECOGNIZED PORT SECURITY ORGANIZATION

A recognized port security organization is a legal entity that meets the requirements set out in Annex 4 of the SPSA and is authorized as a public authority to perform the following tasks related to port security:

- preparation of the port security assessment
- development of a port security plan
- preparation of amendments to the port security assessment
- drafting amendments to the port security plan
- development of procedures for the implementation of periodic and general exercises to verify the ability to timely apply the measures and procedures set out in the port security plan
- processing and analysis of data and information of security importance for the security of the port with the development of an intelligence product - reports to maintain security vigilance and readiness of staff residing in the port area and to take the necessary security measures.

PORT CONFORMITY WITH SECURITY MEASURES

- (1) Whether the port meets the security protection requirements prescribed by the Act is verified by the presence of the so-called declaration of conformity of the port issued by the Ministry of Maritime Affairs
- (2) The Ministry shall issue a statement on the compliance of the port within 30 days after the approval of the security protection plan.
- (3) The declaration of conformity of the port shall be issued for a period of five years, counting from the date of approval of the security protection plan.
- (4) The declaration of conformity of a port shall be valid provided that a regular annual inspection is performed every year on the date of issuance of the declaration of conformity of the port or in the period of 60 days before or 60 days after that date.
- (5) The regular annual inspection shall be performed jointly by inspectors for security protection and officials of the ministry competent for internal affairs.
- (6) The form of the declaration of conformity is prescribed in Annex 7 of the SPSA.

REPORTING OBLIGATIONS

Since the collection and exchange of information between EU Member States and signatories to the SOLAS Convention contributes to strengthening the system of protection of seaports, the Ministry is obliged to report to the International Maritime Organization, the European Commission and other EU Member States on measures taken in accordance with Chapter XI.-2 SOLAS Convention and ISPS Code.

The Ministry is also obliged to establish a special body in charge of security protection, and to submit to the European Commission information on that body as well as on the person in charge of security protection in the Ministry.

The Directorate for Safety of Navigation has been designated as the body responsible for security protection, which is responsible for reporting and coordinating activities with the European Commission and Member States regarding the application of the relevant regulations of the European Union. The Navigation Safety Directorate is also obliged to report to the European Commission on ports and port operational areas to which the SPSA applies.

THANK YOU FOR YOUR ATTENTION!

